HC-KAR

NC: 2026:KHC-D:98
CMP No. 100019 of 2024

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 7TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CIVIL MISC. PETITION NO.100019 OF 2024

BETWEEN:

1. SHRI. RAGHAVENDRA S/O. KRISHNASA KHODEY,
   AGE. 45 YEARS, OCC. BUSINESS,
   R/A. PALM MEADOWS LAYOUT,
   NEAR BONNON COUNTRY CLUB,
   GOKUL ROAD, HUBBALLI, DIST. DHARWAD-580030.

2. SMT. VIDYA W/O. RAGHAVENDRA KHODEY,
   AGE. 45 YEARS, OCC. HOUSEWIFE,
   R/A. PALM MEADOWS LAYOUT,
   NEAR BONNON COUNTRY CLUB,
   GOKUL ROAD, HUBBALLI, DIST. DHARWAD-580030.

...PETITIONERS

(BY SRI. S.S. NIRANJAN, ADVOCATE)

AND:

SHRI. VIJAYKUMAR S/O. KRISHNASA KHODAY,
AGE. 47 YEARS, OCC. BUSINESS,
R/AT. H.NO.47, EAST BESIDE,
KEMPANNAVAR KALYAN MANTAP,
VIJAYNAGAR, HUBBALLI, DIST. DHARWAD-580032.

...RESPONDENT

(BY SRI. GURUDEV I.GACHCHINMATH, ADVOCATE)

YASHAVANT NARAYANKAR
Digitally signed by YASHAVANT NARAYANKAR
Date: 2026.01.09 10:54:53 +0530

THIS CIVIL MISC. PETITION IS FILED UNDER SECTION 11(5) AND 11(6) R/W SECTION 11(12)(B) OF THE ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO, APPOINT AN ARBITRATOR AS PER REQUEST OF THE PETITIONER OR SUCH PERSON AS THIS HON'BLE COURT DEEMS FIT TO ADJUDICATE THE DISPUTE THAT HAVE ARISEN BETWEEN PETITIONERS AND RESPONDENT AS PER CLAUSE 18 OF THE DEED OF RE-CONSTITUTION DATED 18.03.2023 AND ETC.,.

THIS CIVIL MISC. PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

This petition is filed seeking the following prayers:

> ***"WHEREFORE, the petitioners prays that this Hon'ble Court may pleased be to, appoint an arbitrator as per request of the petitioner or such person as this Hon'ble Court deems fit to adjudicate the dispute that have arisen between petitioners and respondent as per clause 18 of the Deed of Re-Constitution dated 18.03.2023. and***
>
> ***Pass such others and further order as this Hon'ble Court deems fit including cost of this proceeding, in the interest of justice and equity."***

2. It is the case of the petitioners that they entered into a partnership deed along with the respondent. They are all family members and they all together started industry in the name and style of "M/s.Shree Raghavendra Industries". The respondent is

the active partner of the said firm. He was managing all the business affairs of the industry. On 18.03.2023, the petitioners desired that they want to retire from the firm and reconstitution of the partnership deed was entered. For the outgoing partners, the respondent had issued cheques in respect of their initial capital share as on 31.03.2022. The said cheques were dishonored for the reason 'insufficient funds'. The petitioners had filed criminal cases against respondent under Section 138 of the Negotiable Instruments Act and the said cases are pending adjudication. Further, it is stated that the respondent had agreed that the balance capital of the petitioners, if any, will be paid after finalization of the accounts of the firm for the financial year 2022-2023. Further, he agreed to pay the capital of the remaining outgoing partners within reasonable time. The petitioners repeatedly requested the respondent to submit the details of the account of the firm and also requested him to pay the balance capital amount, but the respondent did not agree for the same. They also came to know that the respondent has mis-utilized and misappropriated the loan amount borrowed from AXIS Bank and also shifted certain machineries and parts of the industries to his Hari Om Sales Corporation. It is the case of the

petitioners that the respondent has purchased several properties by misappropriating and misutilizing the funds of the firm in his name and his wife's name. When the petitioners came to know about all these things, they issued notice to the respondent on 01.04.2025, but the respondent did not respond to the same. It is stated that after issuance of notice dated 01.04.2025, the petitioners have issued another notice on 25.05.2024 through their advocate for appointment of Arbitrator and names were also furnished. It is stated that as per Clause No.18 of the Reconstitution Deed dated 18.03.2023, there is a specific clause that all the disputes between the partners of the firm should be referred to Arbitration as per the provisions of the Indian Arbitration and Conciliation Act, 1997. But the respondent did not adhere to the same, which made the petitioners to come before this Court.

3. Learned counsel appearing for the petitioners submits that in the light of the Reconstitution Deed between the parties, the petitioners ought to have appointed or ought to have come forward for appointment of the Arbitrator, which would settle the disputes between the parties. It is admitted that he is

a continuing partner and there is an obligation on the respondent.

4. Learned counsel appearing for the respondent has drawn the attention of the Court to the deed and submits that the said reconstituted partnership deed dated 18.03.2023 is not signed by the respondent and hence, the same is not binding on him. It is submitted that the petitioners cannot seek enforcement of an agreement to which the respondent is not a signatory.

5. Having heard the counsels on either side, perused the material on record. As rightly contented by the learned counsel appearing for the respondent, the reconstitution deed is not signed by the respondent. When he is not a signatory, the said deed is not binding on the respondent. In those circumstances, this Court cannot appoint an Arbitrator as per the clause mentioned in the said agreement. This Court finds no reason to appoint an Arbitrator as sought by the petitioners. Hence, the following:

ORDER

i) The Civil Miscellaneous Petition stands ***dismissed***.

ii) All I.As., in the petition shall stand closed.

SD/-
JUSTICE LALITHA KANNEGANTI

YAN
CT: UMD,
List No.: 1 Sl No.: 17